

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE LOUIS BERGER GROUP, INC.,

Plaintiff,

- against -

STATE BANK OF INDIA,

Defendant.
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DOCUMENT
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DATE FILED: 2/28/11
11 Civ. 0410 (VM)

ORDER

VICTOR MARRERO, United States District Judge.

Plaintiff The Louis Berger Group, Inc. ("Berger") brought this action against defendant State Bank of India ("Bank") seeking monetary and injunctive relief for the Bank's refusal to pay on demand under an irrevocable letter of credit ("Letter of Credit") that Progressive Constructions Limited ("Progressive") had caused to be issued by the Bank in favor of Berger. Progressive moved to intervene in this matter on January 27, 2011.

During a telephone conference with Berger and the Bank on January 28, 2011, the Court directed the parties and Progressive to submit three-page letter briefs addressing the issues of jurisdiction and venue in this Court in light of a proceeding currently pending in the City Civil Court of Hyderabad, India involving Berger, the Bank and Progressive, as well as an arbitration proceeding underway in New Jersey involving Berger and Progressive ("New Jersey

Arbitration"). The Court stayed the time for the parties to respond to Progressive's motion to intervene.

On February 14, 2011, Progressive filed an order to show cause seeking: (1) permission to intervene in this matter; (2) a preliminary injunction (a) requiring Berger to withdraw its demand on the Letter of Credit, and (b) enjoining Berger from making any demand on the Letter of Credit pending final resolution of the New Jersey Arbitration; and (3) a stay of this matter pending final resolution of the New Jersey Arbitration. The Court directed the parties to submit any response by February 16, 2011 and held a hearing on Progressive's order to show cause on February 17, 2011.

For the reasons stated on the record at the hearing, the Court is not persuaded that Progressive has made a showing sufficient to obtain the injunctive relief that it seeks. See Mullins v. City of New York, 626 F.3d 47, 52 (2d Cir. 2010). The Court therefore denies Progressive's request for a preliminary injunction and reserves ruling on the remaining issues presented by Progressive's order to show cause until the those issues have been more fully developed.

ORDER

For the reasons stated above, it is hereby

ORDERED that the order to show cause filed by proposed intervenor Progressive Constructions Limited ("Progressive") is DENIED to the extent that it seeks a preliminary injunction; and it is further

ORDERED that the parties and Progressive are directed to confer and, by March 7, 2011, submit to the Court a proposed briefing schedule regarding (1) whether Progressive should be permitted to intervene in this matter; and (2) whether this matter should be stayed pending final resolution of (a) a pending proceeding in the City Civil Court of Hyderabad, India involving plaintiff The Louis Berger Group, Inc. ("Berger"), defendant State Bank of India and Progressive, and/or (b) an arbitration proceeding in New Jersey involving Berger and Progressive.

SO ORDERED.

Dated: New York, New York
28 February 2011


VICTOR MARRERO
U.S.D.J.